

RESOLUTION No. 2008-64-751-Z-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA; APPROVING THE APPLICATION SUBMITTED BY HODGEN CONSTRUCTION INC., FOR PROPERTY GENERALLY LOCATED AT 1200 NORTHWEST 167TH STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FOR A NON-USE VARIANCE OF SECTION 33-259(8) OF THE ZONING CODE TO ALLOW SIXTY TWO PERCENT (62.0%) OF THE TOTAL GROSS BUILDING AREA DEVOTED TO REPAIR/SERVICE BAYS WHERE ONLY FIFTEEN PERCENT (15%) IS PERMITTED; PROVIDING FOR CONDITIONS; PROVIDING FOR ACCEPTANCE OF DECLARATIONS OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Hodgen Construction, Inc. ("Applicant"), on behalf of owner LP Evans Motors WPB, Inc., is planning and developing the now vacant Modernage property, approximately 11.96 acres, located at 1200 Northwest 167th Street, more particularly described on Exhibit "A" attached hereto, and

WHEREAS, the Applicant seeks a non-use variance of Section 33-259(8) of the Zoning Code to allow sixty-two percent (62.0%) of the total gross building area devoted to repair/service bays where only fifteen (15%) percent is permitted, and

WHEREAS, the City Planning and Zoning staff has recommended approval of the Resolution subject to certain conditions, and

WHEREAS, the City Council considered the testimony of the Applicant, if any, and

WHEREAS, the City Council also considered the testimony of the City's Planning and Zoning staff and the Staff Report, attached hereto as Exhibit "B" incorporated herein by reference,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. APPROVAL: The City Council of the City of Miami Gardens hereby approves the Application submitted by the Applicant for the non-use variance of Section 33-259(8) of the Zoning Code to allow sixty-two percent (62.0%) of the total gross building area devoted to repair/service bays where only fifteen percent (15%) is permitted.

Section 3. ACCEPTANCE OF DECLARATION OF RESTRICTIVE COVENANTS: The City Council of the City of Miami Gardens, Florida hereby accepts the Declaration of Restrictive Covenants, attached hereto as Exhibit "C."

Section 4. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON APRIL 2, 2008.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Gilbert

SECONDED BY: Councilman Campbell

VOTE: 5-0

Mayor Shirley Gibson	<u>x</u> (Yes)	___ (No)	
Vice Mayor Barbara Watson	___ (Yes)	___ (No)	Out of town
Councilman Melvin L. Bratton	<u>x</u> (Yes)	___ (No)	
Councilman Aaron Campbell	<u>x</u> (Yes)	___ (No)	
Councilwoman Sharon Pritchett	___ (Yes)	___ (No)	Not present
Councilman André Williams	<u>x</u> (Yes)	___ (No)	
Councilman Oliver Gilbert III	<u>x</u> (Yes)	___ (No)	

SKD/bfc

8063682_1.DOC

City of Miami Gardens

1515 NW 167th Street
Miami Gardens, Florida 33169



Mayor Shirley Gibson
Vice-Mayor Barbara Watson
Councilman Oliver Gilbert III
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilman André Williams

Agenda Cover Page – Hodgen Construction –Mercedes Benz **PH-2008-000026**

Date: April 2, 2008

Fiscal Impact: No ☒ Yes ☐

(If yes, explain in Staff Summary)

Funding Source:

Contract/P.O. Requirement: Yes ☐ No ☒

Sponsor Name/Department: City Manager via Planning and Zoning

Public hearing ☒

Ordinance ☐ Resolution ☒

1st Reading ☐

2nd Reading ☐

Advertising requirement: Yes ☒ No ☐

RESOLUTION NO. 2008 –

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA; APPROVING THE APPLICATION SUBMITTED BY HODGEN CONSTRUCTION INC., FOR PROPERTY GENERALLY LOCATED AT 1200 NORTHWEST 167TH STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FOR A NON-USE VARIANCE OF SECTION 33-259(8) OF THE ZONING CODE TO ALLOW SIXTY TWO PERCENT (62.0%) OF THE TOTAL GROSS BUILDING AREA DEVOTED TO REPAIR/SERVICE BAYS WHERE ONLY FIFTEEN PERCENT (15%) IS PERMITTED; PROVIDING FOR CONDITIONS; PROVIDING FOR ACCEPTANCE OF DECLARATIONS OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Attachments:

Resolution

Exhibit "A" Legal Description

Exhibit "C" Declaration of Restrictive Covenants

Exhibit "B" Staff Recommendation

**10-C) RESOLUTION
APPROVING THE APPLICATION
SUBMITTED BY HODGEN
CONSTRUCTION INC.**

Exhibit "A" Legal Description

All lots 1 through 12, Both Inclusive: the west 44 Feet of Lot 22; and all of Lot 23, All in Block 1, Sunshine State Industrial Park, Section One, According to the Plat Thereof, As Recorded In Plat Book 76, At Page 75 of The Public Records of Dade County, Florida.

Return to: (enclose self-addressed stamped envelope)

Name: Ronetta Taylor, City Clerk

Address:

City of Miami Gardens
1515-200 N.W. 167th Street
Miami Gardens, Florida 33169

This Instrument Prepared by:

Sonja K. Dickens, Esquire
Arnstein & Lehr, LLP
200 East Las Olas Blvd., Suite 1700
Fort Lauderdale, Florida 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

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DECLARATION OF RESTRICTIONS

WHEREAS, Hodgen Construction, Inc. ("Applicant") on behalf of owner LP Evans Motors WPB, Inc. is planning and developing the now vacant Modernage property, approximately 11.96 acres, located at 1200 Northwest 167th Street ("Property"), more particularly described on Exhibit "A," attached hereto, and

WHEREAS, the Applicant seeks a non-use variance of Section 33-259(8) of the Zoning Code to allow sixty-two percent (62.0%) of the total gross building area devoted to repair/service bays where only fifteen (15%) percent is permitted, and

IN ORDER TO ASSURE the City of Miami Gardens that the representations made by the Applicant will be abided by, the Applicant, subject only to conditions contained herein, freely, voluntarily and without duress, makes the following Declaration of Restrictions covering and running with the Property:

1. **Submitted Plans.** That the subject property be developed substantially in accordance with the plans submitted, labeled "Mercedes Benz of Miami" as prepared by Bohler Engineering, consisting of sheets C-1 to C-4, C-6, C-8 to C-11, dated 11/15/2007, sheets C-5 and C-7 dated 03/17/08; plans submitted labeled "Mercedes Benz of Miami" as prepared by Praxis, Architecture Planning Design, consisting of sheet A201 and A500, dated 01.08.2008; plans submitted

labeled "Mercedes Benz of Miami" as prepared by Intuitive Design Group, consisting of sheets LP-1 to LP-5, dated January 9, 2008; and plans submitted labeled "Overall Site Plan Rendering" as prepared by Bohler Engineering, consisting of sheet R-1, dated 03-17-08.

2. **Improvements**: That the applicant shall contribute the amount of \$125,000 towards the improvements and beautification of intersection of N.W. 13 Ave. and N.W. 167 St., and frontage along N.W. 167 St. and N.W. 13 Ave. Such improvements may include, but not be limited to, landscaping, signalization, hardscape, rights-of-way improvements, and beautification, as may be approved by the City of Miami Gardens. Contribution shall be made to the City at time of issuance of building permit or no later than September 30, 2008. The City Manager may extend this date, in writing, providing an extension is requested in writing containing just cause and reason.
3. **Arch Improvements**: That the applicant shall contribute the amount of \$70,000 towards the refurbishment and improvement of the Sunshine Industrial Park Association Arch at N.W. 13 Ave. and N.W. 167 St. Such improvements may include, but not limited to, landscaping, irrigation, lighting and signage, as may be approved by the City of Miami Gardens. Contribution shall be made to the City at time of issuance of building permit but no later than September 30, 2008. The City Manager may extend this date providing an extension is requested in writing containing just cause and reason.
4. **Sidewalk**: The applicant shall remove and reconstruct at its sole cost, the adjacent sidewalk along N.W. 167 Street and portion of sidewalk along N.W. 13 Ave. extending from N.W. 167 Street to N.W. 165 Street. Such improvements shall meet the approval of the Public Works Department.
5. **Pavement**: The applicant shall make improvements to the right-of-way along its' portion of N.W. 167 Street, which shall include, improvements to the edge of pavement, re-sodding, and gravel. Such improvements meeting the approval of the Public Works Department, and subject to approval by FDOT. These improvements shall not include the installation and construction of curb and cutter.
6. **Re-striping**: The applicant shall re-stripe, at its' sole cost, the portion of N.W. 13 Ave. adjacent to the property.
7. **Landscaping**: The applicant shall submit a landscape plan, meeting the approval of the Development Services Department, prior to issuance of building permit.
8. **Unity of Title**: The applicant shall proffer a Unity of Title for the property encompassing the auxiliary lot prior to the issuance of C.O., on a form approved

by the City Attorney.

9. **City Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of the City, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.
10. **Covenant Running With The Land.** This Declaration on the part of the Applicant shall constitute a covenant running with the land and shall remain in full force and effect and be binding upon the Applicant, and his heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.
11. **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming from the date this Declaration is recorded. This Declaration shall be in effect for a period of thirty (30) years from the date of recordation in the public records of Miami-Dade County, Florida, after which time it shall be automatically extended for periods of ten (10) years. This Declaration may be modified, amended or released as to the Property or any portion thereof by a written instrument executed by the then Applicant(s) of the Property, and applicable mortgagees, if any, provided that same is approved by the City Council after public hearing. In such event, the Mayor or City Manager shall execute a written instrument suitable for recordation acknowledging such modification, amendment or release.
12. **Modification, Amendment, Release.** This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the City, or other procedure permitted under the City's Code, whichever by law has jurisdiction over such matters, after public hearing.
13. **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may judge to be reasonable for attorney fees. This enforcement provision shall be in addition to any other remedies available at law or in equity. Jurisdiction shall be proper in Miami-Dade County.
14. **Authorization for Miami Gardens to Withhold Permits and Inspections.** In the event the terms of this Declaration are not complied with, in addition to any

other remedies available, the City is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration is complied with.

15. **Executed Copy to be provided to the City. Executed Copy to be provided to the City Clerk.** The Applicant shall be fully responsible for providing to the City Clerk an original and fully executed copy of the Declaration of Restrictions within thirty (30) days of the approval of this request by the City Council, unless an appeal is filed or otherwise the Director, for good cause shown, grants a time extension. If this is not accomplished, the approval shall become null and void. If circumstances prevent the Applicant from complying with this timeframe condition, the Applicant may request, in writing, an extension of said thirty-day timeframe in writing to the Development Services Director, who is authorized to take such action upon the request to approve, disapprove or approve with conditions such request.
16. **Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.
17. **Recording.** The City, at Applicant's expense following the approval of the same by the City of Miami Gardens, shall file this Declaration of record in the Public Records of Miami-Dade County, Florida.
18. **Acceptance of Declaration.** Applicant acknowledges that acceptance of this Declaration does not obligate the City in any manner, nor does it entitle Applicant to a favorable recommendation or approval of any application, zoning or otherwise, and the City Council retains its full power and authority to deny each such application in whole or in part, and to decline to accept any conveyance.
19. **Applicant.** The term Applicant shall include the Applicant, and its heirs, successors and assigns.
20. **Waiver.** Each and every covenant and agreement contained herein shall be for any and all purposes hereof construed as separate and independent and the breach of any covenant by any party shall not release or discharge such party from its obligations hereunder. No delay or omission by any party to exercise its rights accruing upon any noncompliance or failure of performance by any party shall impair any such right or be construed to be a waiver thereof. A waiver by any party hereto of any of the covenants, conditions or agreements to be performed by any other party shall not be construed to be a waiver of any succeeding breach or of any other covenants, conditions or agreements contained herein.
21. **Severability.** All rights, powers and remedies provided herein may be exercised

only to the extent that the exercise thereof does not violate any then applicable law and shall be limited to the extent necessary to render the real covenants herein valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person, entity or circumstance shall be held to be invalid, illegal or unenforceable, the validity of the remaining terms, provisions, covenants or agreements or the application of such term, provision, covenant or agreement to persons, entities or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

22. **Entire Agreement.** This Agreement and the exhibits attached hereto contain the entire agreement between the parties hereto with respect to the subject matter hereof. This Agreement and exhibits supersede any prior correspondence, memoranda or agreements in total hereto.
23. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, Applicant has executed this Declaration.

Print Name: _____

MERCEDES BENZ OF MIAMI

Print Name: _____

BY ITS:
PRESIDENT

Signature

Print Name: _____

Print Name

Print Name: _____

Date

ACCEPTANCE

The City of Miami Gardens, hereby accepts this Declaration of Restrictions
hereby made by _____.

CITY OF MIAMI GARDENS, FLORIDA

Attest:

City Clerk

By: _____
Mayor Shirley S. Gibson

Date: _____

STAFF RECOMMENDATION
PH-2007-000026 Hodgen Constructon, Inc.
Mercedes Benz Variance Service/Repair Area

APPLICATION INFORMATION

Applicant: Hodgen Construction, Inc.
Owner: LP Evans Motors WPB, Inc.
Project Name: Mercedes Benz of Miami
Site Location: 1200 N.W. 167th Street
Property Size: 11.96 Acres
Future Land Use: Commerce
Existing Zoning: IU-1, Light Industrial
Requested Action(s):

1. A NON-USE VARIANCE OF SECTION 33-259(8) OF THE ZONING CODE TO ALLOW SIXTY TWO PERCENT (62.0%) OF THE TOTAL GROSS BUILDING AREA DEVOTED TO REPAIR/ SERVICE BAYS WHERE ONLY FIFTEEN PERCENT (15%) IS PERMITTED.

RECOMMENDATION

Recommend approval of the Resolution subject to the following conditions:

1. Submitted Plans: That the subject property be developed substantially in accordance with the plans submitted, labeled "Mercedes Benz of Miami" as prepared by Bohler Engineering, consisting of sheets C-1 to C-4, C-6, C8 to C-11, dated 11/15/2007, sheets C-5 and C-7 dated 03-17-08, plans submitted labeled "Mercedes Benz of Miami" as prepared by Praxis, Architecture Planning Design, consisting of sheet A201 and A500, dated 01.08.2008; plans submitted labeled "Mercedes Benz of Miami" as prepared by Intuitive Design Group, consisting of sheets LP-1 to LP-5, dated January 9, 2008 and sheet B-1, dated 03-17-08; and plans submitted labeled "Overall Site Plan Rendering" as prepared by Bohler Engineering, consisting of sheet R-1, dated 03-17-08.
2. Improvements: That the applicant shall contribute the amount of \$125,000 towards the improvements and beautification of intersection of N.W. 13 Ave. and N.W. 167 St., and frontage along N.W. 167 St. and N.W. 13 Ave. Such improvements may include, but not be limited to, landscaping, signalization, hardscape, rights-of-way improvements, and beautification, as may be approved by the City of Miami Gardens. Contribution shall be made to the City at time of issuance of building permit or no later than September 30, 2008. The City Manager may extend this date providing an extension is requested in writing containing just cause and reason.
3. Arch Improvements: That the applicant shall contribute the amount of \$70,000 towards the refurbishment and improvement of the Sunshine Industrial Park

Association Arch at N.W. 13 Ave. and N.W. 167 St. Such improvements may include, but not limited to, landscaping, irrigation, lighting and signage, as may be approved by the City of Miami Gardens. Contribution shall be made to the City at time of issuance of building permit but no later than September 30, 2008. The City Manager may extend this date providing an extension is requested in writing containing just cause and reason.

4. Sidewalk: The applicant shall remove and reconstruct at its sole cost, the adjacent sidewalk along N.W. 167 Street and portion of sidewalk along N.W. 13 Ave. extending from N.W. 167 Street to N.W. 165 Street. Such improvements shall meet the approval of the Public Works Department.
5. Pavement: The applicant shall make improvements to the right-of-way along its' portion of N.W. 167 Street, which shall include, improvements to the edge of pavement, re-sodding, and gravel. Such improvements meeting the approval of the Public Works Department, and subject to approval by FDOT. These improvements shall not include the installation and construction of curb and cutter.
6. Re-striping: The applicant shall re-stripe, at its' sole cost, the portion of N.W. 13 Ave. adjacent to the property.
7. Landscaping: The applicant shall submit a landscape plan, meeting the approval of the Development Services Department, prior to issuance of building permit.
8. Unity of Title: The applicant shall proffer a Unity of Title for the property encompassing the auxiliary lot prior to the issuance of C.O., on a form approved by the City Attorney.
9. Declaration of Restrictive Covenants: That the applicant proffer a Declaration of Restrictive Covenants containing the conditions herein, on a form approved by the City Attorney.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Zoning District	Existing Use	Future Land Use
Site	IU-1, Light Industrial	Vacant building	Commerce
North	BU-3, Liberal Business/ Palmetto Expressway	Commercial	Commerce
South	IU-1, Light Industrial	Industrial building	Commerce
East	IU-1, Light Industrial	Industrial building	Commerce
West	IU-1, Light Industrial	Industrial building	Commerce

The subject property is the approximately 12.0 acre, vacant Modernage site located at the Southeast corner of NW 13th Avenue and NW 167th Street, at the on ramp to the Palmetto Expressway, and adjacent to the east of the Sunshine Industrial Park landmark arch. Directly to the north is the NW 167th Street service road, and the Palmetto Expressway. To the east, west and south the properties are developed with industrial warehousing type uses.

Project/Background Information

1. The applicant, on behalf of LP Evans Motors, Inc. are planning to develop the now vacant Modernage property to allow the relocation of the Mercedes Benz of Miami car dealership from their current location on the east side of I-95 and Golden Glades interchange.
2. The vacant 335,000 square foot Modernage building will be demolished for the construction of a new 101,158 square feet building that will house the sales floor, administration, and the service and repair bays; and the construction of a 1,540 square feet enclosed car wash, exclusively for the dealership.
3. Approximately 62,000 square feet (62%) of the gross floor area will be devoted towards the service and repair bay area, with the remaining floor area to be used towards sales and display, administration, and parts.
4. The site will have a total of 1,177 parking spaces, of which 249 will be for customer parking; 7 spaces for ADA requirements; 824 spaces will be for vehicle storage; and 97 will be for the repair and service bays. The auxiliary parking lot to the south of the main property will be used exclusively for vehicular storage.
5. The applicant has designed a 35.0' wide heavily landscaped buffer along the perimeter of the property fronting NW 167 Street and NW 13 Avenue to enhance beautification of the property, and to utilize it for on-site storm water retention. The Code requirement is a 15.0' buffer.
6. The applicant has agreed to proffer in the amount of \$125,000 towards the improvements and beautification of the intersection area of NW 167 Street and NW 13 Avenue; and has also agreed to proffer \$70,000 towards the refurbishment and improvement of the Sunshine Industrial Park Association landmark arch.
7. The applicant has also agreed to reconstruct the perimeter sidewalk and re- edge the pavement along NW 167 Street; re-stripe the area of NW 13 Avenue abutting the property; and replace the sidewalk extending from NW 167 Street to NW 165 Street.

Zoning History

The subject property has had no recent or relevant zoning actions affecting this development.

Comprehensive Development Master Plan (CDMP)

Paragraph 3 of the Statement of Legislative Intent in the Comprehensive Development Master Plan states as follows:

"The City Council recognizes that any application for development approval may bring into conflict and necessitate a choice between different goals, objectives, policies, priorities, and provisions of the Plan. While it is the intent of the City Council that the Future Land Use Element be afforded a high priority, other

elements must be taken into consideration given the City Council's responsibility to provide for the multitude of needs of the City's growing and diverse community. Recognizing that the City Council and City agencies will be required to balance competing goals, objectives, and policies of this Plan, the primary intention of the Plan is to protect the public health, safety and welfare."

The subject parcel is designated Commerce on the adopted 2006-2016 Land Use Plan (LUP) Map of the Future Land Use Element (FLUE) of the Comprehensive Development Master Plan (CDMP) of the City of Miami Gardens.

Objective 1.3 states:

"The Commerce designation is intended for planned urban commercial, urban industrial, urban cultural and economic hubs. The Commerce areas shall include existing and planned activity centers that are primarily located along the City's three major roadway corridors."

The proposed automobile dealership is a typical commercial activity conducted appropriately in commercial and industrial areas, with insignificant impacts on residential neighborhoods. The proposed use will be located with access directly off, and directly onto the Palmetto Expressway. The service and repair bay are exclusively for the dealership and a common and typical accessory use.

Conclusion: The proposed dealership and the granting of the variance will be consistent with goals and objectives of the CDMP while protecting the public health, safety, welfare by design and location.

Analysis and Zoning Criteria:

Section 33-311(A)(4)(b) Non-use variances from other than airport regulations, states in relevant terms that:

Upon appeal or direct application in specific cases to hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations, the Board (following a public hearing) may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.

The requested non-use variance is to allow 62% of the gross floor area devoted towards service and repair bay area where the Code allows up to 15%. The impacts of the additional service and repair areas are marginal when considering the overall dealership is approximately 12 acres with a building of over 100,000 square feet of gross floor area and parking for 1,177 vehicles. The additional area allows for the efficient and convenient service for the volumes of vehicles that are expected to be serviced eliminating any outdoor servicing and impacts on adjacent properties. The service and repair bays are common and typical accessory uses with car dealerships, and is exclusively for the Mercedes Benz dealership.

Conclusion: The requested non-use variance maintains the basic intent and purpose of the Zoning Code; and does not impact negatively the stability and character of the industrial area.

Anticipated Facilities Impact

General: Concurrency determinations are not finalized during the zoning approval process.
Traffic Circulation: Access to the property will be from N.W. 167 Street and from N.W. 13 Avenue. The applicant has submitted a traffic study which summaries a increase of 1495 vehicle trips from the change of use from a furniture retail/warehouse to a car dealership, however, the additional trips will not exceed the LOS for any of the impacted rights-of-way.

Public Notification/Comments

In accordance with the Zoning Code, notification of this rezoning request was mailed to property owners within 500 feet of the subject site to provide them an opportunity to comment on or object the application if they so choose. No comments were received from any of the property owners within that radius. (See Mailed Notice Radius Map, attached).

NOTE: This recommendation to approve this application shall not be construed to be a development order.

Attachments:

- Public Hearing Checklist
- Letter Of Intent
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Affidavit
- Mailed Notice Radius Map
- Traffic Impact Analysis
- Submitted Plans
- Transmittal Confirmation